

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

| | | |
|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, | : | Docket No. 13-00294 |
| | : | |
| Plaintiff, | : | |
| vs. | : | July 10, 2015 |
| | : | |
| THOMAS DESSOYE, | : | |
| | : | |
| Defendant. | : | Lafayette, Louisiana |

REPORTER'S OFFICIAL TRANSCRIPT OF THE SENTENCING HEARING
BEFORE THE HONORABLE ELIZABETH E. FOOTE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

JOHN LUKE WALKER
ROBERT CHASE ABENDROTH
United States Attorney's Office
800 Lafayette Street, Ste. 2200
Lafayette, LA 70501

FOR THE DEFENDANT:

WAYNE J. BLANCHARD
Federal Public Defender's Office
102 Versailles Blvd.
Lafayette, LA 70501

LARAE E. BOURQUE, RMR, CRR
Federal Official Court Reporter
800 Lafayette Street, Ste. 3103
Lafayette, LA 70501

P R O C E E D I N G S

THE COURT: All right. The Court calls the case of *United States of America vs. Thomas Dessoie*, which is 13-294.

Representing the government we have Mr. Abendroth; is that correct?

MR. ABENDROTH: That is correct, and Mr. Walker.

THE COURT: And Mr. Walker.

All right. And representing Mr. Dessoie, we have Mr. Wayne Blanchard.

MR. BLANCHARD: Good afternoon, Your Honor.

THE COURT: Good afternoon to you, sir.

And, Mr. Dessoie, you are present in court?

THE DEFENDANT: Yes, ma'am.

THE COURT: Good afternoon to you.

THE DEFENDANT: Good afternoon.

THE COURT: You can be seated at this time.

All right. The Court notes that this sentencing is pursuant to a plea to Count 4 of the superseding indictment, distributing child pornography.

Mr. Dessoie, have you had an opportunity to review the presentence report that was provided by the probation office?

THE DEFENDANT: Yes, ma'am.

THE COURT: And you reviewed that with your attorney, Mr. Blanchard?

THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right. And, Mr. Blanchard, you, of
2 course, have reviewed this; is that correct?

3 MR. BLANCHARD: Yes, Your Honor.

4 THE COURT: The Court notes no objections to the
5 presentence report, but certainly knows that you have filed a
6 sentencing memorandum arguing that the Court should discount a
7 number of the special offense characteristics that are added on
8 to the base level offense based on the recommendations that are
9 contained in the sentencing guidelines and other factors. Is
10 that correct, sir?

11 MR. BLANCHARD: Yes, Your Honor.

12 THE COURT: All right. But, Mr. Blanchard, let me go
13 over, then, how the calculation is made.

14 MR. BLANCHARD: Okay.

15 THE COURT: The base offense level was a 22 pursuant to
16 2G2.2(a)(2). He received two additional points because the
17 material involved a prepubescent minor or a minor who's not
18 attained the age of 12. He receives an additional six points
19 because it involved distribution to a minor that was intended to
20 persuade, induce, entice, or coerce the minor to engage in
21 illegal activity.

22 The Court wants to be very clear about the factual
23 basis underlying this specific offense characteristic. This
24 relates to the distribution of child porn to the minor through
25 the Dropbox and the content of the text messages to the minor --

1 no. It relates to the distribution of the child porn to the
2 minor through Dropbox.

3 The Court understands that the part of the indictment
4 dealing with text messages seeking to persuade the minor to
5 engage in sexual acts with another minor in Minnesota has been
6 dropped.

7 Is that all correct from the government's standpoint?

8 MR. ABENDROTH: That is, Your Honor.

9 THE COURT: Okay. So the illegal activity is the
10 pornography?

11 MR. ABENDROTH: Are you asking a question?

12 THE COURT: I am. The distribution of child
13 pornography to the minor through the Dropbox?

14 MR. ABENDROTH: Through the Dropbox. That is the
15 illegal activity.

16 THE COURT: So the child then has possession?

17 MR. ABENDROTH: Possession of child pornography.

18 THE COURT: Okay. There is an additional four points
19 because the material portrays sadistic or masochistic conduct or
20 other depictions involving violence.

21 There is an additional two points for the use of a
22 computer on an interactive computer service for the distribution
23 of the material.

24 There is an additional five points because the offense
25 involved 600 or more images.

1 And then he receives a minus three for acceptance of
2 responsibility meaning that there is a total offense level of 38.

3 Mr. Dessoye has no criminal history. The guideline
4 range therefore falls to 235 to 293 months. 240 months is the
5 statutory maximum under 18 U.S.C. Section 2252(b)(1).

6 Does the government believe that the Court has
7 correctly calculated the guideline range?

8 MR. ABENDROTH: We do, Your Honor.

9 THE COURT: Mr. Blanchard?

10 MR. BLANCHARD: Yes, Your Honor.

11 THE COURT: All right. At this time do we have a
12 victim impact statement?

13 MR. ABENDROTH: We do, Your Honor. Mr. Raymond Stawski
14 would like to make a statement to the Court, Your Honor.

15 THE COURT: Please come forward, sir. I think we have
16 Mr. and Mrs. Stawski here -- or, no, just Mr. Stawski.

17 MR. STAWSKI: Your Honor, I'm going to try and get
18 through this as best I can.

19 THE COURT: Yes, sir. And we have all the time in the
20 world.

21 MR. STAWSKI: Thank you.

22 I am writing this letter and presenting it to you,
23 Your Honor, in regards to the damage and pain that Thomas Dessoye
24 has caused our family and probably other families as well.

25 First of all, I do not want to be here. The pain in

1 just recreating the last three years is as bad as it gets for
2 myself, my wife, and our children. It has caused our family so
3 much strife and pain. A letter of words will never fully
4 describe what we are going through.

5 First of all, I'd like to take the time to thank the
6 U.S. Attorney's Office, FBI, and county sheriffs for what they
7 have done. They got our son back. I also have to add
8 congratulations to them for building a rock solid case on all
9 charges. I know the reason they accepted a plea bargain is
10 because they didn't wish to put our family through any more
11 punishment and stress than necessary as we did nothing wrong, and
12 they wanted to spare us flying down here and going through the
13 testimony process which would have been a final straw for us.

14 Their compassion was appreciated, and keeping our son's
15 psyche is the number one priority, but, Your Honor, he is an
16 emotional mess. This has been devastating for our whole family,
17 which is painful for me to watch because my family is my world.
18 I hate to see them -- I hate to see them in such distress and
19 confusion.

20 Your Honor, I have a lot of faith in the justice system
21 and I know it does work and I hope it will again. We have never
22 been involved in anything remotely close to a situation like
23 this. Your Honor, I believe this man is a danger to society, and
24 I am confident your court will do whatever it must to protect our
25 vulnerable children.

1 Your Honor, we are a very vulnerable family as I am a
2 100 percent disabled veteran, and Thomas Dessoie knew this and
3 took advantage -- took full advantage and waited over eight
4 months until the time was right to pounce on my son like an
5 animal. He started soliciting and grooming our son, acting as if
6 he was nearly the same age, through a chatline when our son was
7 only 15 years old. He sent my son child pornography on my own
8 personal computer. So I was in extreme danger of being accused
9 of criminal activity also, and there is more about this later.

10 Thomas Dessoie talked our son into opening and then
11 paid for a post office box to send my son money and drugs. He
12 drove over 3,000 miles to pick our son up without any knowledge
13 or permission from my wife and I. He drove him back to Louisiana
14 over a two-day period for the express purpose of child
15 exploitation. I am told according to federal law that is
16 kidnapping by enticement and grooming. He sent my son over 2,000
17 text messages. With the lure of money and drugs, he coaxed our
18 son into sending him pictures.

19 He's guilty of receiving child pornography through the
20 internet, of soliciting and grooming a minor for sexual purposes,
21 of kidnapping and sexual misconduct with a minor. I know all of
22 these carry heavy sentences. And I'm sure there are other crimes
23 that I don't even know about, plus his previous criminal record
24 of crimes for which he has been convicted. As citizens, we must
25 stress the lawmakers who make the laws and the justice system to

1 decide the penalties for breaking them. I know you will seek
2 justice for our family. Please imagine if you have children and
3 grandchildren how you would feel if this happened to you. God
4 forbid it. It easily can.

5 I asked our son just recently, while you're in school,
6 when you have a math problem or something and you get stressed
7 out, what is the first thing you think of, and he answered
8 Louisiana. My first thought was, oh, my God, this is
9 posttraumatic stress disorder. We both want to believe a child
10 will bounce back to a normal life, but I am not very optimistic
11 anymore. He has now dropped out of school. He has a very --

12 THE COURT: I'm sorry. He has dropped out of school?

13 MR. STAWSKI: We took him out of school. He couldn't
14 handle it. He just couldn't handle school anymore. He has a
15 very large scholarship that I'm afraid he will never use. He has
16 a 50,000-dollar scholarship.

17 THE COURT: To college?

18 MR. STAWSKI: To college.

19 A counselor told me a person on average has about
20 60,000 thoughts a day. If this occupies just one-tenth of
21 one percent of his mind, that's at least 60 times a day my son
22 could be thinking about this. On most days I see the hurt in him
23 and I know it's there.

24 In my case, I think about this a whole lot more. This
25 has consumed my mind for over two and a half years and this has

1 been ongoing for three years.

2 I'm trying to figure out how to ease his pain. I see
3 him just walking around and he tells me he feels stupid and
4 worthless. He tells me it's none of my business. Your Honor, I
5 just cannot sit back and hope he grows out of it. I can't. I'm
6 doing everything I can.

7 He was a good kid and full of life and kindness until
8 Thomas Dessoie entered our lives. I knew something was wrong
9 before Dessoie kidnapped him, but I just couldn't put my finger
10 on it. Normally he would have come running to me with a problem
11 or a situation when he knew he was over his head, but how do you
12 approach your parents with something so awful?

13 I feel so guilty that I didn't spot the signs. I was
14 not aware of how serious this situation was. Just one solid clue
15 is all I would have needed to alert the authorities.

16 I also learned what normally happens is we, as parents,
17 find out, notify the police, and they take over until Dessoie
18 would have trapped himself.

19 There are many questions I was asking myself. Where
20 was he getting the money? Where were the drugs coming from? Why
21 all of a sudden he becomes so secretive and combative?

22 My son hates me right now. I haven't talked to him for
23 over six weeks. He just will not talk to me. He does not live
24 with me. My son hates me because I wasn't able to see the clues
25 and protect him. He won't take any advice from me even on the

1 simplest of things and that feels horrible.

2 Our son is on drugs now and totally out of control. He
3 cannot concentrate. His schooling and his priorities are all
4 messed up. I know he's just trying to make sense of this, but he
5 just can't. His mind just stopped growing when Dessoye entered
6 our life. I know we need to get him into treatment, but he won't
7 go, and, Your Honor, we will continue to work on getting him the
8 help we need.

9 THE COURT: Yes. I was under the impression, sir, that
10 he was going to counseling at one point that was provided to him
11 by the state. Is that not correct?

12 MR. STAWSKI: He was going to counseling and the
13 counselor just didn't have the credentials for something so
14 heinous as this. She just couldn't -- she didn't have the
15 credentials.

16 THE COURT: Are there alternatives available to him?

17 MR. STAWSKI: We are working with that through the
18 Minnesota Recreation Board (phonetic) to get him the help he
19 needs. We're trying.

20 THE COURT: Thank you, sir. I interrupted you. Please
21 continue.

22 MR. STAWSKI: We're working on this as best we can.

23 It didn't surprise me to learn that I'm a victim also
24 in this case. Child pornography was sent to my own personal
25 computer. I had no idea that there was child pornography on it,

1 but it took the sheriff's office over ten days to tell me that I
2 had no involvement in this. That was ten days of pure hell.
3 Thank God they did a thorough job, because if they would have
4 arrested me, I don't know what I would have done to myself. I
5 honestly feared the worst if you know what I mean. Do you
6 understand that point?

7 THE COURT: Yes, sir.

8 MR. STAWSKI: Just to be accused of something so
9 heinous is totally beyond my comprehension. I just cannot wrap
10 my mind around it. I am not sure, but I believe the
11 City of Big Lake was ready to arrest me on the spot. Thank God
12 for Deputy Schuster (phonetic) who intervened. He immediately
13 got it in the proper hands of a Detective Hanson (phonetic) and
14 Detective Ginetta (phonetic) and also Detective Escott when we
15 arrived in Louisiana. I feared I was going to be arrested here
16 in Louisiana.

17 When my wife and I found out that our son was somewhere
18 in Louisiana, the sheriff's department needed a search warrant
19 for our house. They couldn't get one until the next day, and I
20 said "F" that. We would bring the computers in to them right
21 away. But when my wife went to pick up the two computers -- pick
22 two of the computers up from the computer shop, she was
23 surrounded by four squad cars, and this is a gal who's never even
24 had a traffic ticket. Can you imagine how that made her feel?
25 And to have six or seven squad cars come rolling into our

1 driveway? The terror of that day I will never forget.

2 There were so many questions that we had no answers to.
3 The sheriff's department didn't have to do anything. We tore our
4 own house upside down looking for any computer-related item that
5 we could find for the sheriff's department to take because we
6 still didn't know what was going on.

7 Your Honor, with all the phone calls coming in and
8 confusion, there were times that I thought Dessoye had killed my
9 son. We were so desperately relieved when we knew for sure he
10 was in the sheriff's hands in Louisiana.

11 My wife and I are separated now and have entered
12 divorce proceedings. We have been together for 30 years. We
13 just can't come to any agreements anymore. We just can't. We
14 just can't come to any agreements. A lady from the victim's
15 recreation board told us when we got back home that this might
16 very well happen. We were counseled very heavily when we got
17 home on what to expect and what to try and do and not to do.

18 We lost our home to foreclosure.

19 I would like you to see this house.

20 THE COURT: Yes, sir.

21 MR. STAWSKI: I built that house brick by brick by
22 myself. This will give you an idea of the permanent damage that
23 Dessoye has caused us.

24 I know I should have seen the warning signs and I
25 believe our son wanted to tell us, but he was just too scared.

1 Your Honor, I've learned a lot about grooming over the
2 last two and a half years. Did Dessoye have a manual for this?
3 Because I've read everything off the U.S. Attorney's website and
4 he was perfect. He did not miss a beat and waited in the weeds
5 for the right time when we were really struggling and he pounced.

6 There's no excuse for what he did, and he knew exactly what he
7 was doing. I knew something was wrong, but I didn't know what it
8 was or what to do, and what is so sad, Your Honor, is I know now,
9 but I'm too late.

10 I tried to hire a lawyer. He wanted a 15,000-dollar
11 retainer before he would even talk to me.

12 I then went to the sheriff's office and told
13 Detective Tim Ginetta and Detective Ken Hanson that I have to put
14 my faith in God and you guys to help us through this. I was so
15 helpless, scared, confused, and I still am confused.

16 And, Your Honor, may I say something to Dessoye?

17 I'll direct it to you.

18 THE COURT: Direct the remarks to the Court, sir, yes.

19 MR. STAWSKI: And to Dessoye, I say you must come clean
20 with the Lord, and the only way you can is to come clean with the
21 U.S. Attorney's Office. You need to tell them everything you
22 know in detail, who you have hurt, who you have sent files to,
23 anything and everything. No detail is too small. That is the
24 only gateway to redemption.

25 I did come bearing one gift for him and that is a

1 Bible.

2 MR. ABENDROTH: May I give that to Mr. Blanchard?

3 THE COURT: To Mr. Blanchard, yes.

4 MR. STAWSKI: In closing, Your Honor, thank you for
5 your time and all the people who worked so diligently to bring
6 this man to justice and start some type of closure for our family
7 so we can start the healing process. I hope we can be assured he
8 will never do this again.

9 A special thanks goes out to Robert Abendroth and
10 Detective Escott for helping us through this extremely tough
11 time. He allowed us to lean on him when he knew we were hurting
12 the most, and I know he felt our pain.

13 And I have one -- this was written six weeks ago about,
14 and this is just a little update of what's going on. I already
15 mentioned it. D.S. has a scholarship for \$50,000, which I'm
16 afraid he's not going to use. That's a lot of money. So that's
17 a good education.

18 When Dessoye entered our lives, this poor kid never had
19 a chance, he never had a chance, and that's what makes me so
20 angry and sad. If I would have just seen one clue.

21 And D.S. now has -- my son, D.S., now has pending
22 felony charges for drug possession and we're dealing with that as
23 best we can.

24 THE COURT: Were those arising out of this matter or
25 are there subsequent problems?

1 MR. STAWSKI: Yes.

2 THE COURT: They're new problems?

3 MR. STAWSKI: They're new problems. He's had a lot of
4 problems since this all started. He just -- can I tell you a
5 little quick story?

6 THE COURT: Certainly, sir.

7 MR. STAWSKI: I remember one day he was about 14 years
8 old and he had ten pieces of candy, let's say, and there were ten
9 kids. He passed out all ten pieces of candy and realized there
10 wasn't one for him. He took that last piece of candy and gave it
11 to the other kid and left himself without one. That's the kind
12 of kid he was.

13 And everything is so F'd up now that it's just beyond
14 my comprehension. I mean, he's just changed. He's combative.
15 He's just -- he's just -- I don't even recognize the kid. And
16 this was a good kid. And they know it in Minnesota. There's
17 lots of people trying to help him. He just -- he just can't
18 comprehend it. He just -- his mind stopped growing. He just --

19 THE COURT: Sir, you are obviously in a lot of pain
20 yourself. Do you have some resources to help you in terms of
21 dealing with this?

22 MR. STAWSKI: I am guided. I'm a 100 percent disabled
23 vet. I have a care coordinator. I have a team.

24 THE COURT: That helps you?

25 MR. STAWSKI: That helps me, yes.

1 THE COURT: All right. Sir, I know that you have also
2 filed a claim, is that correct, a monetary claim?

3 MR. STAWSKI: Yes.

4 THE COURT: All right. The Court would need you to put
5 on evidence with regard to that claim if you are finished with
6 your victim impact statement at this time.

7 Mr. Abendroth, the Court would require that he would be
8 sworn and put forth some evidence.

9 MR. ABENDROTH: Your Honor, I spoke to Mr. Blanchard
10 prior. I don't believe that there is an objection to the amount.

11 THE COURT: Okay. And that amount is what? Let's
12 state it for the record.

13 MR. BLANCHARD: I don't remember the exact amount,
14 Your Honor, but he's correct. We spoke about it.

15 MR. ABENDROTH: It was -- I believe it was \$5,500
16 approximately.

17 THE COURT: \$5,950 -- oh, I'm sorry. \$5,095.

18 MR. ABENDROTH: Yes, Your Honor.

19 THE COURT: Pursuant, then, to that stipulation, the
20 Court would not need the testimony on that issue.

21 All right. Sir, do you understand what we just did?

22 I was asking for your testimony as to the amount of
23 your loss in order that I could make that part of the sentence,
24 but the attorneys have agreed to it, and so mandatory restitution
25 in that amount will be part of his sentence. I cannot comment on

1 what your chances would be about recovering that money, but that
2 is the -- the Court would make that part of the sentence.

3 Is there anything else, sir, that you wish for the
4 Court to consider before we go forward in these proceedings
5 today?

6 The Court certainly takes your remarks seriously, sir,
7 and will take those into consideration.

8 MR. STAWSKI: I guess one thing I'd have to add is how
9 the Court had me fill out the \$5,000. I added it up. It's
10 anywhere from \$300,000 to \$500,000.

11 THE COURT: I can imagine that, sir. I can imagine
12 that there's no way -- you know, when you consider things like
13 you were mentioning like the lost scholarship, the possibilities,
14 et cetera, but this Court is now limited by what you did fill out
15 to that amount.

16 MR. STAWSKI: Yes, I understand.

17 THE COURT: All right.

18 MR. STAWSKI: Am I excused?

19 THE COURT: Yes, sir, you are excused -- not that
20 you're excused. You came here voluntarily to make your
21 statement. So you were never under any court constraint if I
22 could put it that way.

23 MR. STAWSKI: Thank you.

24 THE COURT: Thank you, sir.

25 All right. At this time, then, the Court would ask

1 Mr. Blanchard and Mr. Dessoye to come forward.

2 MR. BLANCHARD: Yes, Your Honor.

3 THE COURT: Mr. Blanchard, do either you or Mr. Dessoye
4 have anything that you -- any statements you would like to make
5 to the Court?

6 The Court certainly invites you, and in particular
7 Mr. Dessoye, to make any statement to the Court.

8 MR. BLANCHARD: I do, Your Honor.

9 First, I'm so sorry, Mr. Stawski, about what happened
10 to your family. Having two sons who were once teenagers
11 themselves and knowing how they felt about things and sometimes
12 me then and how they feel now after they've matured a little bit,
13 I hope that, you know, you and your son heal your wounds. I
14 think that often happens as kids mature.

15 You know, what Mr. Dessoye did was inexcusable. That's
16 why Mr. Dessoye pled guilty here, Your Honor. He knows it was
17 inexcusable. And I know that certainly this caused some pain to
18 the young man and to the family, but I think the text messages
19 showed that the young man had some problems before then also,
20 Your Honor. Did Mr. Dessoye take advantage of him? Yes, he did.
21 And, again, he's tried to do what he can by coming here and
22 pleading guilty, Your Honor.

23 I'd just ask you to take my sentencing memorandum into
24 account. Some of these specific offense characteristics occur so
25 often that they -- I mean, I think it diminishes their

1 meaningfulness, Your Honor. I think what isn't diminished and
2 what we certainly don't dispute at all is the six levels for him
3 having distributed this material to a minor. I think that more
4 than takes into account the fact that he distributed it to a
5 minor, and it is meaningful considering that that only implies a
6 half percent of the time.

7 And the other thing I would say about these guidelines,
8 Your Honor, is I think when they were drafted, people were not
9 obtaining this illegal material by file sharing programs as
10 often. That bumps all of these numbers up. The number of
11 images, it's going to be bumped by file sharing. The fact that
12 some of this may depict prepubescent minors is going to be bumped
13 by file sharing. It's going to give you indiscriminate results,
14 and it's going to result in getting both prepubescent and
15 postpubescent child pornography, Your Honor. I would ask you to
16 take all of that into account in sentencing Mr. Dessoie.

17 And Mr. Dessoie has something that he wants to say to
18 Your Honor.

19 THE COURT: Thank you, Mr. Blanchard, for those
20 thoughtful comments.

21 THE DEFENDANT: Your Honor, D.S., Mr. and Mrs. Stawski
22 and your entire family, my deepest and most humblest apologies
23 for the pain that I've caused you. I know that mere words can
24 never repair or replace what I've taken from you. I want you to
25 know there is not a day or a night that goes by that I don't pray

1 for healing and your compassion to forgive me for the pain that
2 I've caused you. I can't begin to tell you how pained and
3 embarrassed and humiliated I am for my actions.

4 I'm sure you can't think that I can imagine the impact
5 that I've had on your family, but I know all too well because
6 through my actions I've crushed the hearts of people -- the three
7 people that I love most in my life and that's my children. I
8 also pray every day and night that they'll find the compassion to
9 forgive me as well.

10 I can't describe how it feels knowing how it feels
11 going from being their hero, their provider, their protector, to
12 someone who has let them down beyond any stretch of the
13 imagination. I can only tell you that it feels horrible, empty,
14 and it's a pain in every waking moment.

15 I want you to know despite the circumstances, I am not
16 a horrible person. For the past 20 years I've been a loving,
17 caring father, and spouse. I was considered a pillar in my
18 community and my church. I was looked upon with great respect.
19 But through this I was cursed with a dark secret, a sickness, a
20 disease, an addiction, if you will, that I was too proud, too
21 ashamed, or too scared to seek help for. I say an addiction.
22 Just like drugs or alcohol, I was addicted to pornographic
23 material, and even more than viewing it, I was getting it and
24 sending it.

25 Your Honor, I have pled guilty to these charges and I

1 take full responsibility for the shameful acts that I have
2 committed. I realize that I need punishment through
3 incarceration for the wrongs that I've committed. I also beg the
4 Court to show me leniency in my sentencing. I also beg the Court
5 to please consider some sort of long-term treatment program as
6 part of my sentence to help me address my problems, not just
7 locking them up through incarceration.

8 Your Honor, again, I take full responsibility for the
9 distribution of child pornography and distribution of it to a
10 minor. I couldn't be more remorseful or ashamed of what I've
11 done to the Stawski family unit, my children, my family, my
12 friends, and all my loved ones.

13 I beg Your Honor to show me leniency in my sentencing.
14 I would ask that in sentencing, Your Honor would consider my age,
15 and that it could be a sentence that could get me out in time
16 that I would still be fruitful and could make restitution to the
17 Stawski family for the costs that they've incurred or will incur
18 in the future.

19 I would like to thank you, Your Honor, for affording me
20 this time.

21 Once again, I would like to offer my deepest apologies
22 to D.S. and his family. Thank you for the Bible. It may please
23 you to know that I've already found God and I'm sorry.

24 That's it, Your Honor.

25 THE COURT: Thank you, sir.

1 Mr. Blanchard, anything further?

2 MR. BLANCHARD: No, Your Honor.

3 THE COURT: The Court thanks you, Mr. Dessoye, for your
4 comments. The Court would address the defendant's concerns about
5 the specific offense characteristics that have been applied in
6 this case. This Court itself has frequently criticized an
7 arbitrary application of the specific offense characteristics
8 that go along with either the distribution or possession of child
9 porn. Indeed, that criticism itself is borne out by the
10 Sentencing Guideline Commission which issued a report on this
11 very issue. In fact, it's a whole publication.

12 The thrust of that argument by the Sentencing
13 Commission is that we need to re-examine the automatic or
14 arbitrary application of those specific offense characteristics
15 because the sentencing guidelines tend to focus on collecting
16 behavior -- they should focus on the collecting behavior as
17 opposed to the nature of the collection.

18 The Guideline Commission has criticized the arbitrary
19 application of those sentencing characteristics where the nature
20 of the collection is what controls the sentence as opposed to the
21 defendant's own collecting behavior.

22 In this specific case, however, this Court finds as a
23 matter of fact that the application of these particular specific
24 offense characteristics are related to the collecting behavior of
25 this defendant and of the relevant conduct that led to the

1 commission of this crime for which he has pled guilty.

2 For example, the use of a computer, the additional two
3 points under Section 2G2.2(b)(6), is routinely thrown out by this
4 Court in cases where there is a simple possession charge of
5 pornography in that, as Mr. Blanchard points out, the use of the
6 computer is in modern days the way that people possess porn or
7 they distribute it on an automatic file sharing program.
8 However, that's not the facts in this case.

9 In this case, in particular, we know that the use of
10 the computer was extensive. It was used as a method -- the text
11 messages were used as a method of grooming this minor child for
12 receipt of the pornography. It was used to entice the minor
13 child to do this. The minor was instructed and enticed to use
14 Dropbox. The text messages revealed that the minor even resisted
15 viewing the pornography at first which had been placed in the
16 Dropbox until that minor was pressured via the text messages, via
17 the use of a computer, to look at what was placed in the Dropbox.
18 Thus, the computer became the method of seduction, it became the
19 method of grooming, and this Court therefore believes that that
20 two-point enhancement in this case goes beyond arbitrary
21 application.

22 Likewise, the Court routinely throws out the
23 enhancement under 2G2.2(7)(D), an additional five points because
24 the offense involved 600 or more images. The reason the Court
25 would do this on some occasions is because a person who is in

1 possession of child pornography may be participating in a file
2 sharing program where the number of the images comes to them and
3 that video images are also included.

4 However, in this case there is specific -- this is not
5 an arbitrary application because of the collecting behavior of
6 this defendant and the distribution behavior. There is a
7 particular reference in the text messages that this defendant
8 reached a level with the minor where the minor was in the, quote,
9 100 club where that minor had received over 100 images. Thus,
10 the number of images that the defendant possessed becomes
11 relevant to his distribution to the minor that he did perform.

12 It is for those reasons that the Court is disinclined
13 at this time to take off the specific offense characteristics.

14 The Court has looked at other factors in determining
15 the form of the sentence. The Court notes that in mitigation for
16 Mr. Dessoye, that Mr. Dessoye himself was sexually abused as a
17 child. He has a criminal history category of one. That
18 Mr. Dessoye -- so that we know of no other -- no other issues
19 that he has had. We know that he has lost a good job as a result
20 of all of this as well, but those mitigating circumstances are
21 not enough to dissuade this Court from giving a guideline
22 sentence in this matter.

23 Mr. Dessoye, it is for those reasons that the Court has
24 enunciated that you are committed to the Bureau of Prisons for a
25 term of 240 months.

1 Upon release from imprisonment, you are placed on
2 supervised release for a term of ten years.

3 The 100-dollar mandatory special assessment is imposed
4 pursuant to 18, U.S.C., Section 3013. If it is not paid, it is
5 due immediately.

6 Mr. Dessoie, you are also ordered to make mandatory
7 restitution in the amount of \$5,095 to Raymond and Tammy Stawski
8 through the Clerk of Court's office. Restitution is due and
9 owing immediately. Any interest requirement is waived.

10 No fine is ordered in light of the defendant's
11 inability to pay a fine, the mandatory restitution, and the
12 length of the prison sentence which the Court has imposed.

13 When you do get out of prison, Mr. Dessoie, within 72
14 hours of release you will report in person to the probation
15 office in the district to which you are released.

16 While on supervised release, you will abide by the
17 standard conditions of supervision and the following special
18 conditions: You will not commit another state, federal, or local
19 crime. You will not possess a firearm. You will not unlawfully
20 possess a controlled substance. You will cooperate in the
21 collection of DNA. You will report the address where you reside
22 and any subsequent change of address to the probation officer
23 responsible for your supervision. And you will register as a sex
24 offender in any state in which you reside, are employed, carry on
25 a vocation, or are a student. You shall submit to one drug test

1 within 15 days of placement on supervised release and at least
2 two periodic drug tests thereafter as directed by the
3 United States Probation Office.

4 While on probation and under the guidance and direction
5 of the U.S. Probation Office, you will participate in a sex
6 offender treatment program which may include the application of
7 psychological testing until you are discharged from supervised
8 release. If I said "while you were on probation," that was a
9 misspeak. It would in fact be while you are on supervised
10 release. I did. I said "while on probation and under the
11 guidance and direction of the U.S. Probation Office," and that is
12 an incorrect statement. It would be while on supervised release,
13 and the Court corrects that statement.

14 The defendant shall obtain the permission of the
15 probation office before he subscribes to the uses of the
16 internet.

17 In accordance with the recent jurisprudence, any
18 employment that the defendant would have which would require use
19 of a computer, he would need the approval of the probation office
20 to in fact use that computer.

21 The defendant shall not associate with any minor under
22 the age of 18 unless the minor's parent or legal guardian is
23 present except for those minors that he would come in contact
24 with in a casual manner in any public situation.

25 The defendant shall not possess or use any form of

1 pornography and shall not enter any location where pornography
2 can be obtained or viewed.

3 The defendant shall submit to polygraph testing as
4 directed by the probation office. The defendant is directed to
5 pay any costs of this testing as his financial ability is
6 determined by the probation office.

7 The defendant shall pay any outstanding balance owed
8 towards restitution in monthly installments of at least \$100 to
9 begin 30 days after commencement of supervised release. The
10 defendant shall provide full financial disclosure to the
11 probation office and shall not obtain new lines of credit while
12 there is a balance owed towards the restitution.

13 The Court would recommend to the Bureau of Prisons that
14 the defendant would be placed in a facility which would be
15 appropriate for sex offenders and that he would receive treatment
16 as he has requested.

17 Mr. Blanchard, anything else I should add to that?

18 MR. BLANCHARD: No, Your Honor.

19 THE COURT: All right. From the government, is there
20 anything else?

21 MR. ABENDROTH: Your Honor, the government would move
22 to dismiss Counts 1, 2, 3, and 5 of the superseding indictment.

23 THE COURT: Those counts are dismissed.

24 Mr. Abendroth, we have not dismissed charges on anyone
25 else today.

1 MR. WALKER: We don't have to. They all pled to
2 Bills of Information. There were no charges to dismiss.

3 THE COURT: Oh, very good, very good. All right.

4 MR. WALKER: Your Honor, you recommended sex offender
5 treatment. I know within the Bureau of Prisons, if you'll
6 recommend Devens, Massachusetts, that's kind of their central
7 point where all sex offenders go and then they send them to
8 facilities after that.

9 THE COURT: The Court would recommend to the Bureau of
10 Prisons for placement in Devens, Massachusetts. But wait. We're
11 not quite finished here.

12 Mr. Smith, can you come forward.

13 (Conferring)

14 THE COURT: The Court has concerns about the
15 restrictions of computer use during supervised release in
16 accordance with recent jurisprudence. The Court believes that
17 the way that it has described the limit on internet use, as well
18 as the access to minors, is in compliance with the current
19 jurisprudence.

20 Any comment, Mr. Walker? You rise.

21 MR. WALKER: Your Honor, in fact, I believe it is in
22 compliance with current jurisprudence. If you had said he has no
23 access to the internet, I think that would be a problem, but
24 you've said that it's simply supervised by probation. He has to
25 get their permission.

1 THE COURT: And the same thing with regard to contact
2 with the minors. You can't forbid contact in public which is not
3 sought out, but which is just part of walking down the street.

4 All right. Mr. Blanchard?

5 MR. BLANCHARD: I would object to the entirety of the
6 sentence under all of the facts and circumstances of the case,
7 but as to computer use, I thought that when you addressed
8 employment, that you said he couldn't use a computer at all.

9 THE COURT: No, no. He just needs permission from the
10 probation office in connection with any employment. So, in other
11 words, if he was working somewhere where he needed to use the
12 computer, the probation office would ascertain what the limits of
13 that computer use was and is. If it's at an adult bookstore,
14 perhaps that would not be a computer use that the probation
15 office would allow, but if it was something else, then they would
16 allow it.

17 MR. BLANCHARD: Yes, Your Honor.

18 THE COURT: All right. Mr. Dessoye, the Court never
19 sentences anyone without a heavy heart. In this case the Court
20 has simply done its best with the facts that are before it.

21 Mr. Blanchard, we thank you so much for representing
22 Mr. Dessoye.

23 Mr. Dessoye, you are remanded to the custody of the
24 Federal Bureau of Prisons for the commencement of your service.

25 You do have a right to appeal this sentence, and if you

1 do appeal it, then your presentence report and the sentencing
2 memorandum will be sent under seal to the Court of Appeal, and
3 Mr. Blanchard or someone in the Federal Public Defender's Office
4 will be appointed to represent you in connection with that
5 appeal. Do you understand?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. Thank you. This matter is
8 completed.

9 (Proceedings adjourned.)

10 — — —

11
12 Certificate

13 I hereby certify this 2nd day of September, 2015, that the
14 foregoing is, to the best of my ability and understanding, a true
15 and correct transcript from the record of proceedings in the
16 above-entitled matter.

17
18 /s/ LaRae E. Bourque

19 Federal Official Court Reporter
20
21
22
23
24
25